

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RYAN KERWIN : CASE NO. 05-93 ERIE
VS. :
LT. WILLIAM MCCONNELL : MAGISTRATE JUDGE SUSAN BAXTER
: DISTRICT JUDGE SEAN MCLAUGHLIN

PLAINTIFF'S SWORN AFFIDAVIT IN SUPPORT OF
HIS BRIEF IN OPPOSITION TO THE DEFENDANT'S
MOTION FOR SUMMARY JUDGEMENT

During April of 2003 I was residing on HB-block in the restricted housing unit of S.C.I. Smithfield. Also residing on that block during that time was an inmate named Justin Corliss who had a lawsuit pending against Smithfield in the Huntingdon County Court of Common Pleas. (Corliss vs. Varner 2002-260)

Upon request, I prepared and signed an affidavit for Mr. Corliss regarding the officer elicited assaults and other related misconduct I witnessed at Smithfield while on JB-block during December 2001 and January 2002 and regarding Smithfield's failure to protect me from a cellmate who was making threats to assault me.

After completing the affidavit I placed it in a section of a newspaper and gave it to a block officer who I asked to pass it to Mr. Corliss. I was unable to pass the affidavit to Mr. Corliss myself because we both residing in the RHU at the time.

The officer agreed to pass the newspaper but once I handed it to him he opened it to see if anything was hidden in it. He then discovered the affidavit and read it. After reading the affidavit he passed both the affidavit and the newspaper back to me and told me that "he could not pass that." The next morning Mr. Corliss was transferred out of Smithfield and I was moved to another restricted housing unit. (J-block)

A few monthes later I was moved back to H-block and on July 9, 2003, while on HA-block (a partial general population block), I passed inmate Jesse Baker several pre-prepared affidavits (with a court caption on each) related to a lawsuit I was preparing to file against Smithfield. I instructed Mr. Baker to see to it that the affidavits were distributed to specific inmates whose testimony was needed to substantiate the claims in the lawsuit I was preparing to file.

On July 10, 2003 Mr. Baker informed me that he brought the affidavits to yard and had his cousin Joseph Cortino hold them for him by placing them in the fieldhouse where he worked. When yard was terminated Mr. Baker forgot to retrieve the affidavits and it was subsequently discovered that Mr. Cortino left them in the field house when he left the yard.

The next yard both Mr. Baker and Mr. Cortino went to the field house to retrieve the affidavits and discovered that they were missing. After this yard Mr. Baker returned to HA-block, told the block officers what had happened and asked if they could contact the officers who secured the field house after yard was terminated and ask them if they had taken the affidavits. The block officers made the call and subsequently conveyed to Mr. Baker that the officers who secured the field house said that they did not find any affidavits in it.

On July 15, 2003, only 5 days after the affidavits wound up missing, I was transferred from S.C.I. Smithfield to S.C.I. Albion.

I hereby declare under penalty of perjury that the foregoing is true and correct, based upon my personal knowledge and that I am able to competently testify to these facts at trial.

Respectfully submitted,

3/19/06

Date

Ryan Kerwin

Ryan Kerwin

DZ0246

S.C.I. Albion

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